



# California Fair Political Practices Commission

July 24, 1989

Honorable Richard L. Mountjoy  
Assemblyman, Forty-Second District  
State Capitol  
Sacramento, CA 95814

Re: Your Request for Informal  
Assistance  
Our File No. I-89-426

Dear Assemblyman Mountjoy:

Chairman Larson has asked me to respond to your letter concerning Assembly candidate Tricia Hunter and the expenditures made by the California Abortion Rights Action League. Since you do not appear to be asking for advice on behalf of Ms. Hunter, we cannot provide specific advice about Ms. Hunter's obligations under the Political Reform Act (the "Act").<sup>1</sup> (Regulation 18329, copy enclosed.) However, we can provide you with the following general guidance.

Sections 85301 and 85303 limit the amount that persons and committees may contribute to candidates for elective office. These limitations apply only to contributions to candidates. They do not limit independent expenditures made by any person or committee. The United States Supreme Court has ruled that it is unconstitutional to impose any limitations on the amount of independent expenditures any person or committee may make. (Federal Election Com'n v. Nat. Conserv. Pol. Action Committee (1978) 435 U.S. 765; Buckley v. Valeo (1976) 424 U.S. 1.)

The term "independent expenditure" is defined as follows:

"Independent expenditure" means an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly

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<sup>1</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

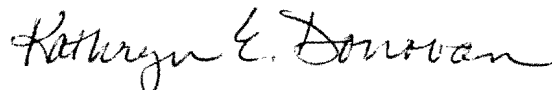
Section 82031.

Thus, a person or committee may make unlimited expenditures which support or oppose a candidate, if those expenditures are not made "to or at the behest of the affected candidate."

The issue pertinent to your letter is whether an expenditure is made at the behest of a candidate. Regulation 18215(b) provides that an expenditure is made at the behest of a candidate if it is "made under the control of at the direction of, in co-operation, consultation, coordination, or concert with, or at the request or suggestion of a candidate." Accordingly, whether a committee makes independent expenditures or contributions will depend on the specific facts of the situation. A candidate's knowledge or acknowledgment of a committee's activities in support of his or her candidacy is one factor to consider for purposes of classifying the committee's activities as independent expenditures, but does not necessarily indicate that the expenditure was made with the involvement of the affected candidate.

If you have any questions about this letter, please contact me at (916) 322-5901.

Sincerely,



Kathryn E. Donovan  
General Counsel

KED:plh

Enclosure

Sacramento Office  
STATE CAP.#OL  
SACRAMENTO, CA 95814  
(916) 445-7234

District Office  
406 SOUTH FIRST AVENUE  
ARCADIA, CA 91006  
(818) 445-3134

# Assembly California Legislature



RICHARD L. MOUNTJOY  
ASSEMBLYMAN, FORTY-SECOND DISTRICT

July 20, 1989

Mr. John Larson, Chairman  
Fair Political Practices Commission  
428 J Street  
Sacramento, CA 95804

Dear Sir:

Attached is an article which appeared in a San Diego newspaper yesterday. The article states that the California Abortion Rights Action League has announced that it has organized an independent expenditure campaign for Tricia Hunter. I understand that this is to involve a significant expenditure, more than \$5,000.

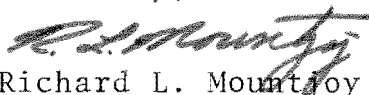
The article quotes Hunter as saying, "I did not solicit this group to help me, but I sure can't look at it as a negative."

If this candidate knows that she is receiving this contribution, she can focus her other resources in other areas, giving her an unfair advantage.

As the candidate has publicly acknowledged the contribution by the California Abortion Rights Action League on her behalf, are not those contributions under the same Proposition 73 contribution levels as those of other donors? Or can they still be classified as independent expenditures, even with, as in this case, the candidate's acknowledgement of the contribution assistance?

This election will be held on August 8; therefore, I would very much appreciate receiving your response by July 24. Thank you for your consideration.

Sincerely,

  
Richard L. Mountjoy  
Assemblyman, 42nd District

M/c  
Attachment

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# CARAL: Support offered to pro-choice Republican

Continued from B-1

## Lobby organizes support for pro-choice Republican

By Gerry Braun  
Staff Writer

The state's leading abortion rights lobby, the California Abortion Rights Action League, has organized an independent-expenditure campaign to assist Tricia Hunter, a Republican candidate in the 76th Assembly District race.

The organization plans to spotlight Hunter as "the only viable pro-choice candidate" in the heavily Republican district and to encourage voters concerned about abortion rights to support her candidacy. CARAL executive director Robin Schneider said yesterday.

"I did not solicit this group to help me, but I sure can't look at it as a negative," Hunter said yesterday. "Abortion is going to be an issue in every state legislative race, and I stand on the right side of the issue."

Political consultants said the strategy is capable of propelling Hunter, a Bonita resident and president of the state Board of Registered Nursing, into a front-running position in the nine-candidate field in the race

to succeed the late Assemblyman Bill Bradley.

They cited a resurgence in abortion rights activism following the U.S. Supreme Court's ruling in Webster vs. Reproductive Health Services, and the fact that Democrats, who are more likely than Republicans to favor abortion rights, can cross over and vote for GOP candidates in the Aug. 8 special election.

The court's Webster ruling gave individual states new power to regulate access to abortions. While the California constitution currently protects a woman's right to abortion and to Medi-Cal funding for the procedure, abortion rights activists believe those protections are vulnerable to political shifts within the judiciary.

Hunter is the only Republican in the race who supports the right to abortion on demand and supports government funding for poor

women's abortions. Only one Republican can survive the primary election — in which two Democrats who support abortion rights are also competing — and qualify for a partisan runoff two months later.

Schneider said CARAL volunteers who have telephoned voters report that a majority claim they favor abortion rights, and a majority of those say that abortion will be a leading factor in their vote.

The list of such voters being compiled by the volunteers will later be sold to the CARAL political action committee, Schneider said, and will become the basis of an August get-out-the-vote effort.

"For us it's an experiment," Schneider said. "We have worked for pro-choice candidates in the past, both Republicans and Democrats, and have always worked directly in their campaigns. So far the results from the phones are positive, but we'll have to see what happens on election day to see if it's a model we

want to continue with."

The phone banks all originate outside San Diego County, Schneider said, and local CARAL members are being encouraged to work for Hunter directly.

"In this kind of a race, with a very short period of time to campaign, I welcome the support," Hunter said.

"I am a pro-choice candidate. It's a health-care issue to me, and I don't believe in restricting health care. It's a choice each person has to make, with their doctor, according to their own beliefs."

Rival political consultants said the tactic carries certain liabilities.

"It is a high-risk strategy to embrace a group that is far to the left," said David Gilliard, who works for candidate Dick Lyles. "It remains to be seen if it can be an effective tactic in a Republican district."

"It is terrible any time one-issue politics take over an election," said Herb Williams, who works for candidate Linda Brannon.